

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF ARKANSAS
JONESBORO DIVISION

FILED
U.S. DISTRICT COURT
EASTERN DISTRICT ARKANSAS

JAN 26 2007

JAMES W. McCORMACK, CLERK
By: Sean Surman
DEP CLERK

DOUGLAS B. STALLEY, on behalf of the)
United States of America,)

Plaintiff,)

v.)

AMERIS HEALTH SYSTEMS, LLC,)

Defendant.)

No. 3:07 CV 00006-GTE

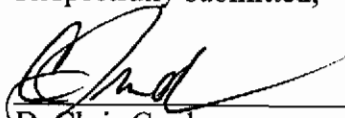
MOTION TO DISMISS

Defendant, Ameris Health Systems, LLC, moves this Court pursuant to Rule 12(b)(1) and 12(b)(6), Fed.R.Civ.P. to dismiss the complaint filed against it. The Plaintiff does not have Article III standing to bring this action and the statute upon which the claim is based, 42 U.S.C. §1395y(b) is not a *qui tam* statute conferring upon Plaintiff the right on behalf of the United States of America to bring this action. Accordingly, subject matter jurisdiction is lacking.

The complaint fails to state a claim upon which any relief can be granted. Plaintiff purports to bring this action prior to determination that Ameris has any responsibility or obligation to reimburse Medicare for any payments that it has received.

It is respectfully submitted that this action must be dismissed for lack of subject matter jurisdiction and because the complaint fails to state a claim upon which any relief can be granted.

Respectfully submitted,



D. Chris Gardner

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CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing is being forwarded via first class mail, postage prepaid to:

James L. Wilkes, II
Timothy C. McHugh
Brian D. Reddick
Susan N. Estes
Wilkes & McHugh
425 West Capitol, Suite 3500
Little Rock, Arkansas 72201

on this the 26th day of January, 2007.


D. Chris Gardner